

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EUGENE D. RUTLEDGE, F-79385,	)	
	)	
Plaintiff(s),	)	No. C 11-4330 CRB (PR)
	)	
vs.	)	ORDER OF DISMISSAL
	)	
A. ALLEN, Deputy Clerk, et al.,	)	
	)	
Defendant(s).	)	

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Plaintiff, a prisoner at High Desert State Prison, has filed a pro se complaint under 42 U.S.C. § 1983 seeking an order compelling deputy clerks of the Supreme Court of California to file his petition for review in a civil case of his against AC Transit. Plaintiff claims that the deputy clerks improperly have rejected his petition as untimely under the California Rules of Court.

### DISCUSSION

#### A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable

claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." Id. § 1915A(b). Pro se pleadings must be liberally construed. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

#### B. Legal Claims

Plaintiff's action must be dismissed because it is well established that this court is without power to direct state officials in the performance of their duties. See Demos v. U.S. District Court, 925 F.2d 1160, 1161-62 (9th Cir. 1991). Plaintiff's invocation of § 1983 makes no difference because his underlying allegations – that the deputy clerks of the Supreme Court of California are misapplying California law – simply do not amount to a violation of a right secured by the Constitution or law of the United States. See West, 487 U.S. at 48.

### CONCLUSION

For the foregoing reasons, the complaint is DISMISSED for failure to state claim under the authority of 28 U.S.C. § 1915A(b).

The clerk shall enter judgment in accordance with this order, terminate all pending motions as moot, and close the file.

SO ORDERED.

DATED: Feb. 22, 2012

  
 CHARLES R. BREYER  
 United States District Judge

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